

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WA.No. 2557 of 2007

(AGAINST THE JUDGEMENT IN WPC.3901/2007 Dated 05/02/2007)

APPELLANT/PETITIONER

SAJEEB.S,
AGED 40,
S/O. SULAIMAN,
MAVINAZHIKAM,
NEERAVIL,
PERINAD P.O.,
KOLLAM.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS/RESPONDENTS:

1. THE REGIONAL TRANSPORT AUTHORITY,
KOLLAM,
REPRESENTED BY SECRETARY.
2. REGIONAL TRANSPORT OFFICER,
KOLLAM.
3. KUNJURAMAN NAIR,
VELLAVILKULANGARACKAL,
KUTTICHIRA,
PEROOR, TKMC P.O.,
KOLLAM.

BY SR. GOVERNMENT PLEADER SMT. K. MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....
W.A. No. 2557 OF 2007
.....

Dated this the 7th November, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Challenging the correctness or otherwise of the orders passed by the learned single Judge in W.P.(C)No. 3901 of 2007 dated 05.02.2007, the petitioner in the Writ Petition is before us in this appeal. For the sake of convenience, we will be referring to the appellant as the petitioner.

2. The facts in brief are as under: The third respondent in the Writ Petition as well as in the Writ Appeal had filed an application before the Regional Transport Authority, Kollam ('RTA' for short) for settlement of timings for his stage carriage. The RTA, after considering the request so made by the third respondent had settled the timings in the meeting held on 30.11.2005 and thereafter, an order came to be passed on 15.12.2005.

3. Immediately after the settlement of timings, one Edmund Joseph, who has transferred the vehicle in question to the petitioner had filed a representation on 01.12.2005 before the RTA to re-consider the settlement of timings arrived at on 30.11.2005.

4. Since the RTA did not pass any orders on the representation so filed, Mr. Edmund Joseph filed a revision petition before the State Transport Appellate Tribunal ('Tribunal' for short). Since there was delay in filing the

Revision Petition, the petitioner in the Revision Petition had also filed an application under section 5 of the Limitation Act to condone the delay of 220 days in preferring the Revision Petition. The Tribunal, by its order dated 14th November, 2006 has rejected the petition to condone the delay in filing the Revision Petition, primarily on two counts. Firstly, Mr. Edmund Joseph was fully aware of the settlement of timings made by the RTA and secondly, the petitioner in the Revision Petition is a transport operator and that he is fully aware of the fact, that once timings are settled by the RTA, he cannot make a representation before the RTA to re-consider the decision of the RTA. To put it in a nut shell, the Tribunal is of the view that the RTA has no power to review/re-consider its own order. Accordingly, the Tribunal had rejected the petition filed for condonation of delay in filing the Revision Petition on the ground that the explanation offered by the petitioner in the petition to condone the delay in filing the Revision Petition is fully unsatisfactory. Consequently the Revision Petition had also been dismissed.

5. After filing of the Revision Petition before the Tribunal, Mr. Sajeeb/petitioner herein, who is the successor in interest of the vehicle in question has approached this court in W.P.(C)No. 3901 of 2007. The learned single Judge, by his order dated 5th February, 2007, has rejected the Writ Petition. Aggrieved by the said order, the petitioner has presented this appeal.

6. The learned counsel appearing for the petitioner would contend that the Tribunal ought not to have rejected the application filed by Mr. Edmund

Joseph on a technical ground. According to the learned counsel, whether there is an explanation or no explanation and whether the explanation offered is satisfactory or unsatisfactory, the Tribunal should have condoned the delay in filing the Revision Petition and should have considered the Revision Petition on merits.

7. We need to notice the contentions of the learned counsel for the petitioner only to reject the same.

8. If for any reason, a person is aggrieved by the orders passed by the RTA, he can definitely prefer a Revision Petition before the Tribunal. If there is any delay in preferring the Revision Petition, the person aggrieved can definitely file a petition under section 5 of the Limitation Act for condonation of delay in filing the Revision Petition. In the petition so filed, the applicant is expected to furnish sufficient and reasonable cause for the delay in approaching the Tribunal. If for any reason, the Tribunal is satisfied with the explanation offered in approaching the Tribunal belatedly, it can certainly condone the delay and then can entertain the Revision Petition on merits.

9. In the instant case, admittedly, there is delay of 220 days in filing the Revision Petition. Therefore, the revision petitioner had filed a petition to condone the delay in filing the Revision Petition. In the explanation offered in the petition to condone the delay, except stating that the revision petitioner had filed a representation before the RTA to re-consider the settlement of timings arrived at on 30.11.2005, no other explanation was offered by the

person who had filed the Revision Petition. The Tribunal is not expected to mechanically condone the delay and proceed to decide the case on merits. The Tribunal is expected to consider the explanation offered by the person aggrieved, in approaching the Tribunal belatedly. That has been done in the instant case. The Tribunal, while rejecting the petition for condonation of delay filed by the revision petitioner before it, had assigned two reasons . Firstly, Mr. Edmund Joseph/revision petitioner was fully aware of the timings settled by the RTA and therefore, on the next day of the settlement of timings by the RTA, he had filed a representation before the RTA. That only means that the revision petitioner was fully aware of the settlement of timings made by the RTA. Secondly, the person, who had filed the Revision Petition is not an illiterate person. The Tribunal is of the opinion that he is a person, who has knowledge of the provisions of the Motor Vehicles Act and Rules for the reason that he is a transport operator. The said transport operator cannot plead his ignorance by saying that he was prosecuting the matter before the RTA before filing the Revision Petition. These are the two aspects of the matter which weighed in the mind of the Tribunal when it rejected the petition for condonation of delay in filing the Revision Petition.

10. In our opinion, taking these aspects of the matter into consideration and also being satisfied that the Tribunal has not committed any error whatsoever in rejecting the petition for condonation of delay, the learned single Judge has rightly rejected the Writ Petition. In that view of the matter , we are

of the opinion, that the learned single Judge has not committed any error which would call for our interference. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

**H.L. DATTU,
CHIEF JUSTICE.**

**K.T. SANKARAN,
JUDGE.**

lk/dk